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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,373	12/19/2000	Samuel N. Zellner	00383	4939

7590 10/21/2003

Jonathan C. Parks, Esq.
Kirkpatrick & Lockhart LLP
Henry W. Oliver Bldg.
535 Smithfield Street
Pittsburgh, PA 15222-2312

EXAMINER	
MILLER, BRANDON J	

ART UNIT	PAPER NUMBER
2683	9

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/740,373	ZELLNER ET AL.	
	Examiner	Art Unit	
	Brandon J Miller	2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 August 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *5* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 5-11, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidary in view of Baker and Rochkind.

Regarding claim 1 Hidary teaches a method of sending an advertisement to a user operating a wireless communication device comprising receiving first information about the identity of the user and receiving second information about the location of the user (see col. 3, lines 4-7). Hidary teaches searching a first database containing one of a plurality of user-specific advertisements and a plurality of location-specific advertisements (see col. 3, lines 39-50). Hidary teaches accessing a second database containing a plurality of user-specific preferences; identifying one or more preferences in a second database associated with a user (see col. 3, lines 18-23). Hidary teaches selecting one of the plurality of user-specific advertisements and one of the plurality of location-specific advertisements based on the one or more preferences in the second database (see col. 3, lines 39-50). Hidary does not specifically teach sending one of the plurality of user-specific advertisements to a wireless communication device in the form of a TCP/IP message over a communication network without transmitting an indication of the location of a user therewith or sending one of the plurality of location-specific advertisements to

a wireless communication device in the form of a TCP/IP message over a communication network without transmitting an indication of the identity of the user therewith. Baker teaches sending one of the plurality of user-specific and location-specific advertisements to a wireless communication device in the form of a TCP/IP message over a communication network (see col. 6, lines 42-46 & 62-67 and col. 7, lines 12-20). Rochkind teaches sending a user and location specific message to a wireless communication device without transmitting an indication of the location or identity of the user (see col. 6, lines 34-40). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include sending one of the plurality of user-specific advertisements to a wireless communication device in the form of a TCP/IP message over a communication network without transmitting an indication of the location of a user therewith and the plurality of location-specific advertisements to a wireless communication device in the form of a TCP/IP message over a communication network without transmitting an indication of the identity of the user therewith because this would allow for secure WEB based distribution of advertisements to wireless communication subscribers.

Regarding claim 5 Hidary teaches receiving the first information about the identity of the user that includes soliciting the first information from the user when the user signs up for a service that provides one or more user-specific advertisements (see abstract and col. 3, lines 18-23).

Regarding claim 6 Hidary teaches receiving information about the identity of a user that is accomplished by extracting information from a message transmitted by a wireless communication device (see col. 2, lines 53-56 & 63-67 and col. 3, lines 1-5).

Regarding claim 7 Baker teaches information about the identity of a user includes information about a location of a user and wherein the one of the plurality of user-specific advertisements is sent to the wireless communication device without transmitting an indication of the location of the therewith (see col. 7, lines 12-20 & 64-67 and col. 8, lines 1-3).

Regarding claim 8 Baker teaches information about the identity of a user that excludes information about the location of the user (see col. 7, lines 62-67 and col. 8, lines 1-3).

Regarding claim 9 Hidary teaches accessing a database; and matching the identity of the user received in the information against each of a plurality of identities stored in a database to determine which of the plurality of user specific advertisements is associated with the user (see col. 3, lines 11-17 & 18-25 and col. 4, lines 22-25).

Regarding claim 10 Baker teaches an advertisement communication network that includes the Internet (see col. 6, lines 41-46).

Regarding claim 11 Hidary teaches receiving second information about the location of the user (see col. 3, lines 4-7). Hidary teaches accessing a second database containing a plurality of location-specific preferences; identifying one or more location-specific preferences in the second database that are associated with the location of the user (see col. 3, lines 39-41 & 45-47). Hidary teaches selecting one of the plurality of user-specific advertisements based on the one or more of the location-specific preferences in the second database (see col. 3, lines 39-41 & 45-47). Hidary does not specifically teach sending one of the plurality of user-specific advertisements in the form of a TCP/IP message over a communication network without transmitting an indication of the location of a user therewith. Baker teaches sending one of the plurality of location-specific advertisements to a wireless communication device in the form of a

TCP/IP message (see col. 6, lines 42-46 & 62-67 and col. 7, lines 12-20). Rochkind teaches sending a user and location specific message to a wireless communication device without transmitting an indication of the location or identity of the user (see col. 6, lines 34-40). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include sending one of the plurality of user-specific advertisements in the form of a TCP/IP message over a communication network without transmitting an indication of the location of a user therewith because this would allow for secure WEB based distribution of advertisements to wireless communication subscribers.

Regarding claim 18 Hidary and Rochkind teach a device as recited in claim 13 except for allowing the user to unblock over the Internet the transmission of information about the location of a user. Baker does teach a user with the ability to turn off and on location information using a WEB page (see col. 4, lines 26-29 & 44-47). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the invention adapt to include allowing the user to unblock over the Internet the transmission of information about the location of a user because this would allow for direct communication between a WEB based advertisement distributor and a wireless subscriber.

Regarding claim 20 Hidary and Rochkind teach a device as recited in claim 13 except for one of the plurality of user-specific advertisements is sent over the communication network in the form of a TCP/IP. Baker does teach a TCP/IP (Transmission Control Protocol/Internet Protocol) connection over a communication network used for WEB based distribution of advertisements to wireless communication subscribers (see col. 6, lines 42-46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the

invention adapt to include one of the plurality of user-specific advertisements is sent over the communication network in the form of a TCP/IP because this would allow for secure WEB based distribution of advertisements to wireless communication subscribers.

Claims 13-14, 16-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidary in view of Rochkind.

Regarding claim 13 Hidary teaches a method of sending an advertisement to a user operating a wireless communication device comprising receiving first information about the identity of the user and receiving second information about the location of the user (see col. 3, lines 4-7). Hidary teaches searching a first database containing one of a plurality of user-specific advertisements and a plurality of location-specific advertisements (see col. 3, lines 39-50). Hidary teaches selecting one of the plurality of user-specific advertisements and one of the plurality of location-specific advertisements based on the one or more criteria pre-selected by the user; and sendingone of the plurality of user-specific advertisements to the wireless communication device (see col. 3, lines 39-50). Hidary does not specifically teach sending one of the plurality of user-specific advertisements to a wireless communication device over a communication network without transmitting information about the location of a user therewith or sending one of the plurality of location-specific advertisements to a wireless communication device over a communication network without transmitting the information about the identity of the user therewith. Rochkind teaches sending a user and location specific message to a wireless communication device without transmitting an indication of the location or identity of the user (see col. 6, lines 34-40). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include sending one of the plurality of user-

specific advertisements to a wireless communication device over a communication network without transmitting information about the location of a user therewith or sending one of the plurality of location-specific advertisements to a wireless communication device over a communication network without transmitting the information about the identity of the user therewith because this would allow for secure distribution of advertisements to wireless communication subscribers.

Regarding claim 14 Hidary teaches receiving information about the identity of a user that is accomplished by obtaining information from an information provider (see col. 2, lines 20-29 & 53-56 and col. 3, lines 4-7).

Regarding claim 16 Hidary teaches a device as recited in claim 14 and is rejected given the same reasoning as above.

Regarding claim 17 Hidary teaches receiving one or more criteria from a user; storing the one or more criteria received from the user in the database; and consulting the one or more criteria while selecting the one of the plurality of user-specific advertisements from a database (see col. 3, lines 5-23 and col. 4, lines 20-24).

Regarding claim 19 Hidary and Rochkind teach a device as recited in claim 13 except for disclosing information about the location of a user to an emergency service provider when a user requests emergency help. Hidary does teach providing an emergency channel to an emergency service provider when a user requests emergency help (see col. 2, lines 57-62). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the invention adapt to include disclosing information about the location of a user to an emergency

service provider when a user requests emergency help because this would allow for WEB based distribution of advertisements to bypassed during an emergency situation.

Claims 3-4, 12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidary in view of Baker, Rochkind and Tajima.

Regarding claim 3 Hidary, Baker, and Rochkind teach a device as recited in claim 2 except for receiving information about a user that includes obtaining information for a fee. Baker does teach receiving location and identity information that includes signing up for an advertisement distributor service (see col. 2, lines 9-18 & 56-60). Tajima teaches advertisement information that is transmitted for an advertisement fee (see col. 3, lines 64-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the invention adapt to include receiving information about a user that includes obtaining information for a fee because this would allow for subscriber information used in WEB based distribution of advertisements to be available at a charge.

Regarding claim 4 Baker teaches a device as recited in claim 3 and is rejected given the same reasoning as above.

Regarding claim 12 Baker teaches a device as recited in claim 3 and is rejected given the same reasoning as above.

Regarding claim 15 Baker teaches a device as recited in claim 3 and is rejected given the same reasoning as above.

Response to Arguments

Applicant's arguments with respect to claims 1 and 3-20 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rouhollahzadeh U.S. Patent 6,208,866 B1 discloses a system and method for location-based marketing to mobile stations within a cellular network.

Findikli U.S. Patent 6,594,482 discloses a controlled transmission of wireless communications device identity.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J Miller whose telephone number is 703-305-4222. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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October 8, 2003

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600